

**CITY OF CLEWISTON
Regular Commission Meeting
September 21, 2015**

The City of Clewiston City Commission held its regular Commission meeting in the City Hall Commission Chambers Monday, September 21, 2015. The meeting was called to order at 5:00 p.m. by Mayor Phillip Roland. The audience recited the Lord's Prayer and the Pledge of Allegiance.

Commissioners Present: Mayor Phillip Roland, Vice Mayor Kristine Petersen, Commissioner Mali Gardner, Commissioner Sherida Ridgill, and Commissioner Julio Rodriguez.

Personnel Present: City Manager Al Perry, City Clerk Shari Howell, Police Chief Don Gutshall, Finance Director Ted Byrd, Recreation Director Lance Ramer, Public Works Director Sean Scheffler, Community Development Director Travis Reese, City Engineer Tommy Perry, and City Attorney Charles Schoech.

Visitors Present: Donald Hughes, Brenda Lopez, Curtiss Pullen, Ninette Aker, Laura Smith, Christine Howell, Steven Stewart. Terry Gardner, Tabitha Yebba, Pepe Lopez, Mary Lois Lee, Joann Wilson, Melanie McGahee, Jerry Cochran, Hillary Hyslope, Tabitha Ralston, Antonio Perez, Melissa Beltz and Raoul Bataller

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA

City Manager Perry requested to add agenda item 5A. Resolution No. 2015-13 which authorizes the financing, via lease purchase, of a new 420F2 Caterpillar Backhoe Loader from Caterpillar Financial Services; he requested to delete agenda item 16.

Acknowledgement of the efforts of Clewiston Green Thumbs Garden Club – Ninette Aker, Treasurer of the Clewiston Green Thumbs Garden Club came forward to present the City with a \$600 contribution for the Civic Park Enhancement.

1. Consent Agenda

- A. City Commission Budget Workshop Minutes – August 10, 2015*
- B. City Commission Public Meeting Minutes – August 13, 2015*
- C. City Commission Workshop Minutes – August 13, 2015*
- D. City Commission Budget Workshop Minutes – August 13, 2015*
- E. City Commission Minutes – August 17, 2015*
- F. Special Event Application – Clewiston High School Homecoming Parade*

Commissioner Gardner made a motion, seconded by Commissioner Petersen, to approve the Consent Agenda. Vote 5 yeas, 0 nays.

PUBLIC HEARING

- 2. Variance Request** – Pedro Diaz is requesting a variance to the standards for the property located at Central Avenue, Lots 41 to 43 and Lot 44, Block 423, General Plan of Clewiston. The Planning and Zoning Board met on September 10, 2015 and recommended denying the variance to the standards. Mayor Roland opened the Public Hearing stating the purpose of the hearing was to accept input from all interested parties relative to a variance request to the yard requirements for construction of two (2) duplexes on Central Avenue, Lots 41 to 43 and Lot 44, Block 423, General Plan of Clewiston from Pedro Diaz. City Manager Perry stated the request is to reduce the lot area requirement for four (4) units from 12,000 sq. ft. to 10,500 sq. ft., and to reduce the south side yard setback from 20 ft. to 4 ft. and to reduce the rear yard setback from 20 ft. to 5 ft. He stated the property is zoned R3 multi-family and the Public Hearing was advertised in the Clewiston News on August 27, 2015. Since this matter represented a quasi-judicial proceeding, City Attorney Schoech swore in all individuals testifying on this matter. Juan Cardenas, on behalf of Pedro Diaz, addressed the Commission stating that after the Planning & Zoning meeting and discussions with Community Development Director Reese, Pedro Diaz's revised request would be for the rear setback which would be changed from 20 feet to 5 feet and the lot size coverage from required 12,000 square feet to 10,500 square feet. Community Development Director Reese explained the amended request and what it would mean to the

surrounding area. Donald Hughes, Planning and Zoning Board member, stated that the amended request, as explained by Community Development Director Reese, was suggested to Mr. Diaz at the Planning & Zoning Board meeting on September 10, 2015. He said the Planning and Zoning Board did not have a problem with the amended request. Since the request had been amended, City Attorney Schoech was asked if it would need to go back to the Planning and Zoning Board for review or if the Public Hearing could proceed with the amended request. Mr. Schoech explained the Commission would need to decide how to handle the matter. Commissioner Ridgdill stated she felt when volunteer boards made recommendations; these recommendations should be followed unless there were some extenuating circumstances that necessitated otherwise. She said her recommendation would be to send the request back to the Planning and Zoning Board and let them do the job they volunteered to do. Commissioner Rodriguez stated he felt the issue did not need to go back to the Planning and Zoning Board since Mr. Hughes was present and had expressed the Planning and Zoning Board found the amended request to be acceptable. Vice Mayor Petersen expressed she felt the volunteer boards were in place for a reason and she felt the matter should go back before the Planning and Zoning Board. Commissioner Gardner stated that she would like the Planning and Zoning Board to review the amended request. The Commission acknowledged their understanding of the time constraints involved with sending the request back to the Planning and Zoning Board. Antonio Perez addressed the Commission, stating he didn't have an issue with the project, but with the process which he disapproved. He felt that care should be given when zoning by variance or special exception takes place. He noted that when changes occurred, it seemed like the project changed right before your eyes; he stated it didn't seem like the correct process for this issue. Jerry Cochran expressed the City had a Planning & Zoning Board for a reason and the issue should go back before the Board. He stated he was absolutely opposed to a 5 foot setback – the building would be 5 feet from the property line. It was explained that the 5 ft. would abut to a 20 ft. alleyway. Laura Smith asked what the plan was for the area. She felt that building 4 units would not be a hardship. She said Mr. Diaz could build 3 units and it would do well. She felt, with his request, there would be no area for children to play. She stated it wasn't a hardship, but simply pertained to the bottom line. Melanie McGahee said she was in agreement with some of the comments that were said. She stated the City had zoning for a reason and that zoning by variance doesn't work. Mayor Roland stated that his recommendation would be to send the matter back to the Planning and Zoning Board. Mayor Roland declared the Public Hearing closed.

Vice Mayor Petersen made a motion, seconded by Commissioner Ridgdill, to send Pedro Diaz's amended variance request back to the Planning and Zoning Board for review. Vote 5 yeas, 0 nays.

ORDINANCE

3. **Ordinance 2015-03 – First Reading** – Ordinance 2015-03 amends section 74-115. - Fee on electrical accounts levied for mosquito control. The purpose for this ordinance is to enable the Commission to establish a mosquito fee by resolution.

Commissioner Gardner made a motion, seconded by Commissioner Ridgdill, to approve Ordinance No. 2015-03 on first reading and set the public hearing for October 19, 2015. Vote 5 yeas, 0 nays.

RESOLUTION

4. **Resolution No. 2015-09** - This resolution revises the monthly garbage collection rates charged to the residents of the City and provides an effective date of October 1, 2015.

Vice Mayor Petersen made a motion, seconded by Commissioner Ridgdill, to approve Resolution No. 2015-09. Vote 5 yeas, 0 nays.

5. **Resolution No. 2015-10** – This resolution authorizes the abandonment, vacating and release of certain utility easements located in a portion of Lot 1 and Lot 18 of Block 451 of the General Plan of Clewiston. The abandonment was requested by Attorney Antonio Perez on behalf of Florida Community Health Centers, Inc.

Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to approve Resolution No. 2015-10. Vote 5 yeas, 0 nays.

- 5A. Resolution No. 2015-13** - This resolution authorizes the financing, via lease purchase, of a new 420F2 Caterpillar Backhoe Loader from Caterpillar Financial Services. The Commission approved the backhoe purchase at the Commission meeting on April 16, 2015.

Vice Mayor Petersen made a motion, seconded by Commissioner Gardner, to approve Resolution No. 2015-13. Vote 5 yeas, 0 nays.

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

- 6. Consideration of Fee Waiver for Mason Cole & Chris Lowe Scholarship Quarter Auction** – This event took place at the John Boy Auditorium on September 19, 2015 and Hendry County Fair and Livestock, on behalf of the event, is asking for a waiver of fees associated with renting the John Boy Auditorium. This event has out grown the use of the Elks Club building and requires more space. As explained by City Manager Perry at the Commission workshop Thursday, September 17, 2015, this is a new event to the John Boy Auditorium and the rental is a new expense for the event; it was understood by the Commission that this would be a onetime only request for a waiver for this event.

Vice Mayor Petersen made a motion, seconded by Commissioner Gardner, to waive the John Boy Auditorium rental fees, totaling \$560, for the Mason Cole & Chris Lowe Scholarship Quarter Auction. Vote 5 yeas, 0 nays.

- 7. Consideration of Fee Waiver for Music Show Fundraiser benefiting Clewiston High School Band and Art Department** – This event will take place at the John Boy Auditorium on December 5, 2015 and it will benefit the Clewiston High School Band and Art Department. Organizers are asking for a waiver of fees associated with the building rental. It was understood by the Commission that this was a onetime only event and new to the John Boy Auditorium.

Commissioner Gardner made a motion, seconded by Commissioner Petersen, to waive the John Boy Auditorium four hour rental fee of \$560 for the Music Show Fundraiser benefiting the Clewiston High Band and Art Department. Vote 5 yeas, 0 nays.

- 8. Approval of Hendry County Library Cooperative State Aid to Libraries Grant Agreement** – Finance Director Ted Byrd has examined this agreement and it is essentially the same the City has entered into for the last several years. City Attorney Schoech stated he had reviewed the document and it was legally sufficient.

Commissioner Ridgill made a motion, seconded by Commissioner Gardner, to approve the Hendry County Library Cooperative State Aid to Libraries Grant Agreement. Vote 5 yeas, 0 nays.

- 9. Service Agreement – Chamber of Commerce** – This agreement states the City will pay the Chamber of Commerce \$5,000 per year in exchange for the use of the Chamber of Commerce's public notice sign and tour bus upon request.

Commissioner Ridgill made a motion, seconded by Commissioner Gardner, to approve the service agreement with the Chamber of Commerce. Vice Mayor Petersen abstained from voting, stating she was a member of the Chamber Board of Directors. Vote 4 yeas, 0 nays.

- 10. Service Agreement – Clewiston Museum** - This agreement states the City will pay the Clewiston Museum \$5,000 per year and pay the utility bills for one year in exchange for the use of the Museum's conference room for public meetings.

Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to approve the service agreement with the Clewiston Museum. Vote 5 yeas, 0 nays.

- 11. Interlocal Agreement between the City of Clewiston and Hendry County regarding recreational facilities, programs and services.** – This agreement revises the funding for the County's recreational support allocation to reflect \$120,000 for the support of the City's recreational facilities and parks and \$55,000 for the City to provide recreational programs for the

County residents in the East Recreation area. Commissioner Gardner stated she'd like to point out that the increase from \$87,500 to \$120,000 was nowhere near the amount the taxpayers of Clewiston have paid for recreation, but she felt that it was a step in the right direction. She stated she wanted to make sure that the City was paid accordingly and that there wasn't a delay in receiving the payments. Commissioner Ridgill pointed out that for fiscal year 2015-16, if funds for providing recreation to East County totaled over \$55,000, the City would only receive the agreement's allotted \$55,000. Commissioner Ridgill stated she would take issue with the City giving up any authority over recreation. Commissioner Gardner stated she wants to reduce the burden of the recreation cost to the residents of the City of Clewiston and that all options should be explored. She stated she would like to hold a workshop for Recreation. Commissioner Rodriguez explained that he did not support this agreement when it was discussed in the Hendry-Clewiston Recreation Board meeting. He said his opinion was that it is time for the County and the School Board to start paying their share of the recreation expense. He stated the School Board should start maintaining/paying the expense for the Stalls Field baseball field since it was used exclusively by the high school baseball team. He said that the interlocal agreement has made more work for the City and he felt like the City should receive \$300,000 and not the agreement's amount of \$120,000. Commissioner Ridgill agreed that there is a discrepancy between \$120,000 and \$300,000. She is not in favor of the \$55,000 East Recreation portion of the agreement because it pulls the staff away from maintaining City Recreation. She asked the Board if the City should continue the Hendry-Clewiston Recreation Board, but noted it continues the dialogue for addressing this issue. Mayor Roland stated that this effort represented the most funding offered to the City since the Hendry-Clewiston Recreation Board had been trying to resolve the matter. He stated that in discussions with the School Board, it was his belief they would take care of the baseball field, softball field, and two soccer fields (this included electricity). Commissioner Gardner reiterated the importance of having a Recreation workshop to discuss these issues.

Commissioner Gardner made a motion, seconded by Commissioner Ridgill, to approve the revised Interlocal Agreement between the City of Clewiston and Hendry County to include a date certain of the May 2016 Commission meeting to review the East Recreation Interlocal Agreement, with steps to notify Hendry County within the ninety (90) days if the Commission at that time decides the agreement isn't meeting the requirements, and to come up with a different plan. Vote 4 yeas, 1 nay. Commissioner Rodriguez voted nay.

12. **Award of West Pasadena Drainage** – This project was advertised in the Clewiston News on August 27, 2015. The bids were opened on September 17, 2015. Scott Jones with Johnson-Prewitt stated the low bid was LCCI Construction and included a base bid and an alternate 1 and 2, and at \$226,892, it is within the FDOT grant monies. Commissioner Gardner asked about the local vendor preference. The local bid received was outside the 10% realm in order to be considered/recommended.

Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to award the West Pasadena Drainage Project to low bidder LCCI Construction for \$226,892. Vote 4 yeas, 0 nays. Commissioner Ridgill abstained from voting as some of her family members stood to gain from this decision.

13. **Award of West Boat Basin Drainage Project** – This project was advertised in the Clewiston News on August 27, 2015. The bids were opened on September 17, 2015. Scott Jones with Johnson-Prewitt stated there were seven bids received. He explained the project is to be funded by the FWC grant which had funds remaining and this project qualifies for the funding. LCCI Construction was the low bidder on the base bid and the alternates at \$31,487. They are a FDOT approved contractor and Johnson-Prewitt will be researching their references. Commissioner Gardner voiced her concerns over the differences in the bids received. She also stated she wanted to ensure that the trail pieces are salvaged and moved elsewhere. She'd like staff to research this issue. Public Works Director Scheffler stated there is a temporary power line that runs through the middle of the project. Scott Jones explained he didn't believe this was going to present an issue to the project.

Commissioner Petersen made a motion, seconded by Commissioner Gardner to award the West Boat Basin Drainage Project to low bidder LCCI Construction for \$31,487. Vote 4 yeas, 0 nays. Commissioner Ridgill abstained from voting as some of her family members stood to gain from this decision.

- 14. Selection of Property, Liability & Workers Compensation Insurance Deductible Levels –** The City's insurance policy is set to renew on October 1, 2015. A decision must be made as to whether or not the current deductibles should be revised to allow for probable cost savings – Finance Director Byrd presented the Commission with options for making a selection and discussion followed.

Commissioner Petersen made a motion, seconded by Commissioner Gardner, to increase the general property and liability insurance deductibles to \$10,000, excluding Workers Comp, and to set aside \$52,000 into contingency funds as a result of this change. Vote 4 yeas, 1 nay. Commissioner Ridgill voted nay.

- 15. Decision to acquire a lobbyist for Fiscal Year 2015-16 –** As a result of Commission/staff discussions at the budget workshops, a decision to acquire a lobbyist for Fiscal Year 2015-16 is needed. City Manager Perry asked the board to consider the cost of the lobbyist not to exceed \$25,000. Commissioners Gardner, Ridgill and Vice Mayor Petersen expressed their approval on acquiring a lobbyist. Commissioner Rodriguez stated that he felt the City had a lot of needs and questioned whether acquiring a lobbyist should be at the top of the list. He felt like the issue was that the City has over 17,000 people traveling through Clewiston every day and we needed to figure out how to get them to stop. He is not in support of acquiring a lobbyist. Jerry Cochran addressed the Commission and inquired whether or not the City had a particular lobbyist in mind. Commissioner Ridgill told him she had met a lobbyist that was being considered and she felt he would do a good job. Mr. Cochran felt that \$25,000 was not a lot to spend to try utilizing a lobbyist. He said that if it didn't work, the City wouldn't need to continue with it.

Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to approve acquiring a lobbyist for Fiscal Year 2015-16; not to exceed \$25,000. Vote 4 yeas, 1 nay. Commissioner Rodriguez voted nay.

- 16. Decision to uphold Commission benefits of health and dental insurance coverage –** Deleted from agenda.
- 17. Decision to uphold or revise current benefit provided to employees who opt-out of the health insurance coverage provided by the City –** As a result of Commission/staff discussions at the budget workshops, a decision to uphold or revise the benefit provided to employees who opt-out of health insurance coverage is needed. – Commissioner Gardner is not in favor of increasing the opt-out.

Commissioner Ridgill made a motion, seconded by Commissioner Petersen, to increase the opt-out provided to employees from \$100 to \$250. Vote 4 yeas, 1 nay. Commissioner Gardner voted nay.

- 18. Reappointments to the Planning & Zoning Board –** Two (2) members of the Planning and Zoning Board have terms that expire on September 30, 2015. The members are Michael Atkinson and Haitham Kaki; both have expressed that they would serve in this capacity again.

Commissioner Gardner made a motion, seconded by Commissioner Ridgill, to approve the reappointments of Michael Atkinson and Haitham Kaki to the Planning and Zoning Board. Vote 5 yeas, 0 nays.

- 19. Discussion of Tyler Software Implementation Progress –** City Clerk Shari Howell stated, due to the recent City Hall staff changes, there was nothing new to report regarding the Tyler Software implementation progress. She reiterated that the core accounting processes had been implemented and were functioning appropriately. She stated that fiscal year 2015 would be the first year where all of the core processes would be totally reported on the Tyler Software. She stated that for fiscal year 2014 half the utilities billing data was on Tyler and half on the City's old Harris software. She said the auditor had thoroughly gone through all of the reconciliations for the data and found acceptable. She said, to her knowledge, there hadn't been any request the auditor had asked for that the City hadn't been able to provide. She said staff was mindful of the time and the need to fully implement the Tyler Software and they were committed to achieving this task. The Purchasing and Fixed Asset Modules are ongoing projects that have never been handled in a software setting. She said she would only be setting the staff up for failure if she were to obligate them to a timeline for accomplishing these goals. Fully implementing all Tyler

Software would depend on the staff transition and connectivity issues with other departments. She stated the comment regarding the completion of the financials, noted on the last few audit reports, was a totally different issue than the Tyler implementation. She noted that the Tyler reporting capability would certainly aid this issue, but it was more a matter of staff learning and developing procedures to solely complete the financials without assistance. Finance Director Byrd discussed this issue. He stated he would be working with the auditor throughout the audit process for fiscal year 2015 in hopes of allaying the comment.

- 20. Update on Code Enforcement** – Chief Gutshall reported the Special Magistrate meeting was held on August 19, 2015 and it had twenty-nine (29) cases on the agenda. He said five (5) of the cases were able to be resolved, six (6) were found to be non –compliant and eighteen (18) others were continued until the November 18, 2015 Special Magistrate meeting; allowing time for the City Attorney to meet with the Special Magistrate to develop a plan to further resolve them. Since the last meeting, forty-six (46) new cases have been opened with sixteen (16) of them resolved. He said forty-one (41) rental inspections were provided during a thirty (30) day period. Mayor Roland inquired if the expense of the Special Magistrate had been recompensed. Chief Gutshall stated he believed none of the fines had been paid and none of the cases that had reached compliance had fees. Commissioner Gardner expressed her appreciation to Chief Gutshall and staff for their continued efforts towards code enforcement; she said she believes the City has taken a huge step in the right direction with these efforts. She said that blight continues in our community and people traveling through are not going to want to stop in our area; the City must continue to address this issue with Code Enforcement; people must be held accountable to the standards. City Attorney Schoech stated initially there were legal concerns when these efforts first started; however, he commended the efforts of Code Enforcement Officer Debbie McNeil. He said that once he reviewed the cases, his concerns were alleviated. He stated he believes the cases are being handled in a proper, prudent and efficient manner, but felt it had been necessary to address the concerns he and the Special Magistrate initially had. He said he believed going forward the Commission would see greater results without delays. Commissioner Rodriguez asked Chief Gutshall what the Code Enforcement's main focus was presently. Chief Gutshall stated that during the summer Code Enforcement is mostly reactive, dealing with high grass and growth; it becomes the main concern, but they are also focusing on dilapidated buildings in all areas of the City. Commissioner Ridgill inquired about sign ordinances as they relate to businesses that still have signs, but are permanently closed. She felt this was misleading to people who may stop at them thinking they're open. Community Development Director stated the sign ordinance does not address verbiage. Commissioner Gardner stated she would like to see this addressed at the next Commission meeting. Commissioner Ridgill commended Code Enforcement Officer McNeil.

- 21. Departmental Monthly Activity Reports** - Presented for information only.

PUBLIC COMMENTS - At this time, any person will be allowed to speak on any matter that pertains to City business. – Recreation Director Ramer announced the Active Citizens for Children's Celebration of the 2nd Anniversary of Sweetest Town Playground, an event that will involve providing minor repairs and maintenance, on October 10, 2015. Commissioner Gardner expressed this was a great idea and she hoped it could be incorporated to include all of the City parks. Director Ramer said the Fall Festival would take place on October 24, 2015.

Antonio Perez addressed the Commission stating he understood Code Enforcement efforts had been a priority over the past nine (9) months, but felt even though people were working on it, not much had been accomplished. He said he understands it will take time and he is patient. He said he felt like part of the reason the situation has gotten to this point was due in part to the way zoning was being handled by special exceptions, variances and special permission. He said as he listened to the meeting's variance request he did not take issue with the applicant or the project, but he did not see where the standard had been laid out for a variance. He said an element of the process was to prove an unnecessary or undue hardship and he did not see where one existed. He said there were sign and landscape ordinances in place and he felt like the City did not follow them. He said the City did not need to change ordinances or to create new ordinances; it simply needed to enforce the ordinances currently in place. He asked if City Attorney Schoech would address the perimeters for proving an unnecessary or undue hardship. City Attorney Schoech stated he had addressed this issue at the Planning and Zoning Board and had told them his opinion was the hardship had not been met. He said this was one of the reasons the Board recommended denying the variance. He said he would provide the Commission with a written explanation, in paragraph form, addressing the seven (7) conditions of hardship.

COMMENTS FROM CITY MANAGER – City Manager Perry acknowledged the efforts of the City Hall staff as they continue to transition with the recent staff changes. He commended the Police Department employees for their efforts in remodeling of their offices.

COMMENTS FROM THE CITY ATTORNEY – City Attorney Schoech reminded the Commissioners who had abstained to complete a conflict of interest form that would get filed with the meeting minutes.

COMMENTS FROM THE CITY COMMISSION – Commissioner Gardner stated she wants the Commission to hold a Recreation workshop. She said she wanted to discuss cost savings that had occurred as well as funding received from the County; she wants to work on reducing ad valorem taxes for the citizens of Clewiston. She said she knew the main street had been discussed, but she wants to continue with the Comp Plan and would like to see recommendations from the Planning and Zoning Board and perhaps a joint workshop with the Planning and Zoning Board and the main street group. She expressed she felt the abandonment and acceptance of new easements was critical to commercial growth and activity. Commissioner Ridgdill voiced concerns regarding the proposed fiscal year 2016 budget as it related to the conditions of some of the City buildings. She'd like a discussion addressing the maintenance of city facilities and a workshop regarding a fee schedule to include discussion regarding the rental inspections. She said she took a tour of the City parks; she recognized the efforts of the *Active Citizens for Children*. She said she wants to make sure staff inspects every park and makes recommendations of what is necessary to bring the parks back up to par. Vice Mayor Petersen said perhaps it could be discussed at the Recreation workshop that some of the groups who utilize the parks could adopt them. Commissioner Ridgdill announced the Putts Fore Pets Golf Tournament scheduled for October 31, 2015 – all proceeds benefit the Clewiston Animal Control. She stated Animal Control infrastructure is needed to maintain being a no kill shelter. She said puppy kennels were needed and the fundraising event would include a pet product drive and a breakfast fundraiser at the Country Club - \$25 per person.

ADJOURNMENT

The meeting was adjourned at 7:46 p.m.

Phillip Roland, Mayor

Shari Howell, City Clerk